

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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AARON HERNANDEZ,

Plaintiff,

-against-

HAPPY STREET LLC, HAPPY STREET TOO LLC,
and SLOBODAN RADIVOJEVIC a/k/a BOB
RADIVOJEVIC,

Defendants.

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Defendants, Happy Street LLC (“Happy I”), Happy Street Too LLC (“Happy II”), and Slobodan Radivojevic A/K/A Bob Radivojevic (“Radivojevic”) (Happy I, Happy II, and Radivojevic collectively hereinafter the “Defendants”), by their attorneys, Sage Legal LLC, pursuant to Rule 56 of the Federal Rules of Civil Procedure (hereinafter referred to as “Rules” or “Rule”) and Rules 7.1 and 56.1 of the Local Rules for the Eastern District of New York (hereinafter “Local Rule” or “LCR”), hereby respectfully submit this Rule 56.1 Statement of Material Facts in Support of their Motion for Summary Judgment (hereinafter “SMF”), as to which Defendants contend there are no genuine issue to be tried.

**DEFENDANTS’ STATEMENT OF UNDISPUTED FACTS IN SUPPORT OF THEIR
MOTION FOR SUMMARY JUDGMENT AGAINST PLAINTIFF**

Defendants Happy I, Happy II, and Radivojevic

1. Happy I was a domestic business limited liability company organized under the laws of the State of New York and is authorized to do business in the State of New York. Radivojevic Decl.¹

¶ 3.

¹ All references to “Radivojevic Decl.” refer to the Declaration of Slobodan Radivojevic in support of Defendants’ motion for summary judgment.

2. Happy I was located at 2127 Amsterdam Avenue, New York, NY 10032-2515. Radivojevic Decl. ¶ 5.

3. Happy I was a pizzeria and did business as “PiePie.” Radivojevic Decl. ¶ 5.

4. Radivojevic was the sole owner, member, and operator of Happy I. Radivojevic Decl. ¶¶ 4-5.

5. Happy II was a domestic business limited liability company organized under the laws of the State of New York and is authorized to do business in the State of New York. Radivojevic Decl. ¶ 6.

6. Happy II was a pizzeria and did business as “PiePie.” Radivojevic Decl. ¶ 8.

7. Radivojevic was the sole owner, member, and operator of Happy II. Radivojevic Decl. ¶ 7-8.

8. Happy I and Happy II both operated under the PiePie brand until Happy I went out of business in 2015. Radivojevic Decl. ¶ 9, Ex. A.

9. Plaintiff Aaron Hernandez (“Hernandez”) worked at both Happy I and Happy II. Radivojevic Decl. ¶ 10.

10. While Radivojevic has been unable to find time and pay records, he recalls that Hernandez worked at Happy II, he was at all times paid somewhere between \$850.00 and \$950.00 per week as a weekly salary without regard to the number of hours he worked. Radivojevic Decl. ¶ 11.

11. Over time, Hernandez was given raises (at least two) until he began earning \$950.00 per week. Radivojevic Decl. ¶ 12.

12. Hernandez was a manager at Happy II who was responsible for overseeing the remaining staff. Radivojevic Decl. ¶ 13.

13. Hernandez had the power to make recommendations about who to hire and fire, discipline the staff, and make important decisions concerning the operations of the pizzeria. Radivojevic Decl. ¶ 14.

14. However, all financial decisions – such as ordering food and supplies – were the domain of Radivojevic, and Hernandez did not perform such duties. Radivojevic Decl. ¶ 15.

15. Hernandez worked at Happy I in or about 2012 until 2015 when it was closed, then worked at Happy II until December 2017, when he went to work for a different pizzeria called Luigis. Radivojevic Decl. ¶ 16.

16. Hernandez mistakenly believed that Radivojevic had an ownership interest in Luigis because it took over the space that Happy I was in. Radivojevic Decl. ¶ 17.

17. However, Radivojevic merely worked to assist the owner of Luigis in order to remove Radivojevic's responsibility for the rent payments due under the lease as it was in his interest to do so. Radivojevic Decl. ¶ 18.

18. Radivojevic had no responsibility to Hernandez for the period of time he worked at Luigis because Radivojevic did not maintain any ownership interest in nor operational control of that pizzeria when he worked there in 2018 and 2019. Radivojevic Decl. ¶ 19.

19. Following the onset of the COVID-19 pandemic, Hernandez flew down to Florida. Radivojevic Decl. ¶ 20.

20. At the time, Radivojevic owned and operated a pizzeria at 7308 Collins Avenue, Miami Beach, FL 33141. Radivojevic Decl. ¶ 21.

21. Hernandez worked at the Florida pizzeria from April 2020 through May 2020, resigning in late May on good terms because he had some personal problems in Miami. Radivojevic Decl. ¶ 22.

22. When Hernandez worked at the Florida pizzeria, it was on the same financial terms and he had the same duties. Radivojevic Decl. ¶ 23.

23. In 2019, Happy II earned gross revenue of \$317,181.00. Radivojevic Decl. ¶ 24, Ex. B.

24. In 2020, Happy II earned gross revenue of \$321,901.00. Radivojevic Decl. ¶ 25, Ex. C.

25. In 2021, Happy II earned gross revenue of \$243,529.00. Radivojevic Decl. ¶ 26, Ex. D.

26. In 2022, Happy II earned gross revenue of \$210,234.00. Radivojevic Decl. ¶ 27, Ex. C.

27. During Hernandez' entire tenure with Radivojevic at Happy II and at his Florida pizzeria, Hernandez did not perform any work involving or relating to the movement of persons among the United States of America ("USA") or between any States within the USA. Radivojevic Decl. ¶ 28.

28. Hernandez's work revolved around managing the employees and serving local customers with pizzeria. Radivojevic Decl. ¶ 29.

Dated: Jamaica, New York
January 6, 2025

Respectfully submitted,
SAGE LEGAL LLC
By: /s/ Emanuel Kataev, Esq.
Emanuel Kataev, Esq.
18211 Jamaica Avenue
Jamaica, NY 11423-2327
(718) 412-2421 (office)
(917) 807-7819 (cellular)
(718) 489-4155 (facsimile)
emanuel@sagelegal.nyc

*Attorneys for Defendants
Happy Street LLC,
Happy Street Too LLC, and
Slobodan Radivojevic a/k/a Bob Radivojevic*

VIA ECF

Levin-Epstein & Associates, P.C.
Attn: Joshua Levin-Epstein & Jason Mizrahi, Esqs.
jason@levineepstein.com
joshua@levineepstein.com

*Attorneys for Plaintiff
Aaron Hernandez*